

Notice of Allowability	Application No.	Applicant(s)	
	10/587,947	GOTZ ET AL.	
	Examiner	Art Unit	
	FRANCES TISCHLER	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/31/09.
2. ☒ The allowed claim(s) is/are 1-15 and 17-24.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>12/2/09</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

/Ling-Siu Choi/
Primary Examiner, Art Unit 1796

/Frances Tischler/
Examiner, Art Unit 1796

DETAILED ACTION

This office action is in response to the amendment filed 8/31/09. Claims 1, 4, 5, 6, 7, 19 and 20 have been amended. Claim 16 is cancelled. Claims 23 and 24 have been added. Claims 1 – 15 and 17 – 24 are now pending.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Bryan H. Davidson on 12/2/09.

The application has been amended as follows:

In claim 1, line 9, change "polyol, and" to - - polyol, - -

**In claim 1, line 12, change "polyol." to - - polyol, and
the poly(alkylene oxide) polyol has an Mn of between 2500 and 5000 g/mol.**

- -

Cancel claim 2 without prejudice.

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In claim 5, lines 1 and 2, change “wherein

a) the poly(alkylene oxide) polyol” to - - wherein the poly(alkylene oxide) polyol - -

In claim 5, line 3, change “weight, and” to - - weight. - -

In claim 5, lines 7 and 8, delete “b) the poly(alkylene oxide) polyol has an Mn of between 2500 and 5000 g/mol.”

In claim 7, line 8, change “has a an unsaturation” to - - has an unsaturation - -

REASONS FOR ALLOWANCE

Claims 1 – 15 and 17 – 24 are allowed.

The following is an examiner’s statement of reasons for allowance:

The present claims are allowable over the closest reference of Bonte et al (US 6,380,290).

Applicant claims a process for preparing a block copolyetherester elastomer comprising polyester blocks and poly(alkylene oxide) polyol blocks of:

- at least one aromatic dicarboxylic acid or ester derivative thereof,
- at least one alkylene diol,

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- a poly(alkylene oxide) polyol, comprising a poly(propylene oxide) end-capped with ethylene oxide,
- an ethylene oxide content of 22 – 90% by weight relative to the total weight of the poly(alkylene oxide) polyol,
- an unsaturation of the poly(alkylene oxide) polyol, being the total content of vinyl and allyl groups, of less than 25 meq per Kg of the polyol,
- a Mn of 2500 – 5000 g/mol of the poly(alkylene oxide) polyol.

Bonte discloses a process for preparing a block copolyetherester elastomer comprising polyester blocks and poly(alkylene oxide) polyol blocks of:

- aromatic dicarboxylic acid or ester derivative thereof,
- alkylene diol,
- Polypropylene oxide glycol which contains ethylene oxide end groups,
- ratio between propylene oxide to ethylene oxide ranges from 20:1 to 1:6, or 4 – 85% ethylene oxide,
- a Mn of 300 - 4000 g/mol of the poly(alkylene oxide) polyol.
- Bonte is silent on the unsaturation content of the poly(alkylene oxide) polyol.

Bonte's use of PL 380, PL 580 and PL 720 as the poly(alkylene oxide) polyol is known to contain 36 – 50 meq per Kg of unsaturation as per Applicant's

Declaration of 11/20/08.

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No prior art teaches or fairly suggests the process of preparing a block copolyetherester comprising poly(alkylene oxide) polyol blocks with unsaturation of less than 25 meq/Kg and with Mn of 2500 – 5000.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANCES TISCHLER whose telephone number is (571)270-5458. The examiner can normally be reached on Monday-Friday 7:30AM - 5:00 PM; off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ling-Siu Choi/
Primary Examiner, Art Unit 1796

Frances Tischler
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Art Unit 1796

/FT/